

Washington, D C 20505

OGC 81-01231

OGC Has Reviewed

13 FEB 1981

MEMORANDUM FOR: Honorable Richard V. Allén
Assistant to the President
for National Security Affairs

SUBJECT: Recommendations for Changes in Regulations
Concerning Intelligence Activities

REFERENCES: A. Memorandum from Counsellor to the President
dated 26 January 1981

B. My Memorandum to you, dated 2 February 1981

1. In my memorandum to you of 2 February 1981, I told you that an ad hoc group of the collecting and producing departments and agencies in the Intelligence Community was preparing a coordinated set of proposed changes to Executive Order 12036 for purposes of improving our capabilities in intelligence-gathering. I now have the report of that group and am transmitting it to you herewith.

2. The group consisted of representatives of the following departments and agencies: the Departments of State, Defense, Treasury and Energy; the Federal Bureau of Investigation; the National Security Agency; and the Central Intelligence Agency. The group has prepared a set of recommendations; these are set forth in the paper attached at Tab A, together with some explanatory and background material. Each recommendation represents the consensus view of all the departments and agencies participating in the group, except for the FBI's reservation about expressing views on the role of the Attorney General. I am pleased that there is such a high degree of unanimity among the collecting and producing agencies. The group also has prepared a draft Executive order that would replace the portions of Executive Order 12036 affected by the recommendations. The draft, which is set forth at Tab B, embodies the recommendations in Tab A. The group is preparing a "legislative history" of the proposed changes for use in subsequent interpretation once they are approved. I endorse these recommendations and urge that an appropriate mechanism be set up for their prompt submission to the President, with comment by other appropriate Cabinet officers, primarily the Attorney General.

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3. It was the unanimous view (with the FBI abstaining) of the departments and agencies represented in the ad hoc group that Recommendation 2 should be given the highest priority, if it is not possible to move rapidly to implement the entire set of recommendations. Recommendation 2 would permit the departments and agencies to simplify and revise the procedures implementing Executive Order 12036, within the substantive limits of that Order, thereby eliminating various policy restrictions imposed by Attorney General Civiletti.

4. The approach taken by the group, which I endorse, was to retain as much of the substance of E.O. 12036 as possible, making only those changes that respond to specific problems encountered by the collecting and producing departments and agencies. There are several considerations in favor of this approach. One is that a more radical revision of the Executive Order could be characterized, however inaccurately, as a wholesale scrapping of legal controls on intelligence activities, raising unnecessary public fears and opposition. A second is that the intelligence departments and agencies are familiar with the structure of E.O. 12036; adhering to that structure will reduce reeducation problems. Finally, this approach aids in focusing attention on the issues involved. In my view, the changes proposed are modest and would leave intact the major elements of the system of legal regulation now in force.

/s/ William J. Casey

William J. Casey

Attachments

cc: The Secretary of State
The Secretary of Defense
The Secretary of the Treasury
The Secretary of Energy
The Attorney General
The Director, Federal Bureau of Investigation
The Director, United States Secret Service
The Director, National Security Agency
Counsellor to the President

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① - OGC Subj: NSC Decisionmaking Structure
1 - OGC Subj: E.O. 12036 - Revisions c.r.
1 - DBS signer
1 - Chrono

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Members of Interagency Group


Jeffrey H. Smith
Deputy Assistant Legal Adviser
Department of State

Leon Schachter
Associate Deputy General Counsel
Department of Defense

L. Britt Snider
Director for CI and Security Policy
Department of Defense

J. Robert McBrien
SA to the Asst. Secretary
Department of the Treasury

Lee Martin
Department of Energy


General Counsel
National Security Agency

James Sturgis
Office of Legal Counsel
Federal Bureau of Investigation

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